

ATTORNEY GENERAL HELD TO BE MASTER OF THE SITUATION

Quo Warranto Cannot Be
Brought Without Permission.

IMPORTANT RULING BY JUDGE
ABBOTT IN SHERIFF'S OFFICE CASE

Judge Ira A. Abbott, in an opinion handed down yesterday, in the proceedings in quo warranto sought to be brought by counsel for T. S. Hubbell against Sheriff Perfecto Armijo, to try title to the office, holds that under the existing New Mexico law, an action of this kind can be brought only with the consent of the attorney general of the territory and in his name, the court holding the law to mean that the attorney general has complete control over actions of this kind.

While this is not the first time that the question of the power of the attorney general has been discussed by a court, the case is of considerable interest aside from its local importance as bearing on the fight for the possession of the sheriff's office. When counsel for T. S. Hubbell had failed to hold the sheriff's office for their client, by defying the orders of the court, and other methods outside the court, they resorted to quo warranto proceedings as the only one in which the title to the office could properly be tried. The action was begun with the permission of Attorney General Pritchard and in his name, but before the matter could be brought up in court, the attorney general changed his mind, and withdrew his name from the action, notifying counsel for Hubbell that whenever they care to bring similar actions in the cases of Frank A. Hubbell and Eslavio Vigil, who were removed from office and successors appointed under similar conditions with T. S. Hubbell, he would allow the use of his name in all three cases jointly.

This action counsel for Hubbell declined to take, for reasons not made public, but generally accepted as based on the fact that the case against T. S. Hubbell is the most hopeful of the three and that to link it with the other two would be to risk an almost certain defeat. Counsel for Hubbell therefore sought to institute quo warranto proceedings without the name or permission of the attorney general and the question was recently argued before Judge Abbott as to whether such action can be had without the permission of that officer.

Judge Abbott's opinion follows: In the District Court of the County of Bernalillo, Territory of New Mexico, vs. Thomas S. Hubbell, relator. Case No. 6320. Perfecto Armijo, respondent.

Opinion. "This is a proceeding by information in the nature of quo warranto, in which on the relation of Thomas S. Hubbell, and in the name of the attorney general, it is charged, in substance, that Perfecto Armijo is usurping the office of sheriff of Bernalillo county, and it is sought to determine by what right he is performing the duties of said office. As it appeared that the proceeding was with the consent of the attorney general, the writ requiring the defendant to appear and show cause, was issued from this court, practically as a matter of course. Later the attorney general filed in the case a statement, that he had withdrawn his consent and declined further to prosecute the cause in behalf of the territory or in his name as attorney general. Thereupon the relator moved the court for leave to proceed in the cause in his own behalf, but in the name of the attorney general per forma.

"It is conceded that in this territory the common law regarding such proceedings is in force, as there has been no legislation modifying it.

"The great weight of authority appears to be that such a proceeding is subject to the discretion of the attorney general, and wholly within his control.

"Attorney General vs. Haberdashers Co., 15 Beavan, 357, 4015, 494.

"State vs. Gleason, 12 Florida, 190.

"Attorney General vs. Sullivan, 163 Mass., 446.

"Haupt vs. Rogers, 170 Mass., 1.

"State vs. Cook, 65 Pac. 39, 49.

"I have come to this conclusion reluctantly, as I think a person in the situation as the relator in this case should have the right to maintain such a proceeding in his own name, under reasonable regulations as to costs and like incidental matters. In this territory, especially, this should be the case, since its supreme court, if I rightly understand its decisions, has said that a proceeding in the nature of quo warranto is the only one by which the title of one in possession of an office and prima facie entitled to hold it, can be determined. But that defect, if it is one, in the law of the territory, can be removed only by legislation. It is the duty of the courts to declare the law, not to make it. (Signed) IRA A. ABBOTT, Judge.

Leonard & Lindmann are offering special inducements to piano buyers now.

HOLDS UP DESERT LAND ENTRIES IN PECOS VALLEY

DEPARTMENT TO INVESTIGATE
FILING IN CHAVES COUNTY

The Itowell land office has received a telegram from the Washington office to withhold all desert land entries in three townships in Chaves county, pending investigation of certain cases therein. The three townships are Nos. 13, 14 and 15 N. in range 25 E. More easily understood, they are the three townships west of Hagerman, west of Dexter and west of Lake Arthur.

Although thousands of acres come under this order, there are many homestead claims and much patented land in these townships, so it can be seen that the whole townships are not affected, says the Roswell Record. Whatever land there may be in these townships that has not been taken up does not come under the order.

An official of the land office said he did not attach much importance to the order, and that he looks for most of the land to be taken from under suspension before long. While in suspension, time is not counted against it, and the man now having one month for proof will still have one month when the suspension is ended.

Thus the order may be a good thing in some cases for those who need more time in getting water on their land. On the other hand, it may be several months before some who are now ready to make their proof can do so. The order stops all transfers and assignments of entries that come under it. In this way, it is a blow to some of the immigration agents.

Original Curio Man Dead.

Jacob Gold, the original old curio man of Santa Fe, died Saturday last at the Territorial insane asylum, at Las Vegas, of progressive paresis. He was 54 years of age and a native of the capital city, the son of Lewis Gold, one of the first Americans to settle in Santa Fe after the American occupation. For many years, and while his mental faculties were intact, he was very successful. He established an Indian agency and curio business on Lower San Francisco street. In the house purchased by his father, thirty years ago. His mental faculties then failing, the business was sold. The remains were interred in the cemetery of the insane asylum.

ENCOURAGING NEWS FROM WASHINGTON ON STATEHOOD ON ROWDYISM ON THE STREETS

Two letters were received in Albuquerque yesterday from men high in the councils of the republican party in Washington, telling of impending success for the Hamilton joint state bill. The letters came as private advice to officers of the joint statehood league and similar letters have been forwarded to the officers of the league of Arizona. One carries assurance that the bill will pass the house in the first week following the holiday recess and the other is from a prominent senator who believes that the bill will be passed shortly afterward by the senate without material amendment. Both of these letters declare that the outlook for the speedy passage of the statehood bill has never been brighter.

Chaves Letter Stir Country.

The open letter recently written by Hon. E. V. Chaves, of Albuquerque, and published in the Morning Journal, has been widely circulated throughout New Mexico, particularly in the rural districts, where Mr. Chaves is well known and very popular. That his opinion not only has had weight in forming public sentiment, but that there was already a vast sentiment in line with the letter among the native people, is made evident by letters coming to Mr. Chaves from all parts of New Mexico written by the Spanish-speaking people. The statesmen so often repeated by the enemies of statehood that the native people of New Mexico are solidly against joint statehood, is flatly contradicted by the outburst which has followed this letter from the well known Albuquerque lawyer whose success has been professional and not political.

CHRISTMAS DECORATIONS.
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THE JAFFA GROCERY CO.,
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Dressed turkeys, geese, ducks, hens and springs at Trotter & Hawkins.

In a Year's Time
You will wish you had saved this or that magazine or periodical. Have them bound and save these vain regrets. All styles and prices at Mitchell & Lithgow's bookbindery at the Journal office.

Do you want to get into business. Small capital required. See McSpadden, the Exchange man, 300 S. Broadway.

McSpadden, the exchange man, 300 South Broadway.

"I want to register a vigorous complaint right now before the winter season is any further advanced," said a prominent citizen last night to the Morning Journal. "I was walking down the street today attending to my own concerns when without a moment's warning I was almost knocked off my feet by a terrific blow in the back of the neck with a so-called snow ball, composed mostly of sand and adobe. It raised a lump on my neck as big as your hand, and as a consequence I have had a stiff neck and an aching head all day. I turned just in time to dodge another similar missile thrown by the same boy. Later I was struck on the side of the head by another. If the first had hit me in the face it would have smashed my glasses and probably ruined my eyesight with broken glass."

"I have no objection to boys having their fun but when pedestrians are threatened with bodily damage every time there is a little snow on the ground it is time something was done. If there is not a city ordinance prohibiting this practice one should be passed immediately. I have taken the matter up with the members of the city council and I am going to follow it up. It is an outrage when citizens are publicly assaulted on the street by roughs, some of them almost grown men. And the worst of it is that women are not immune from this form of rowdism. I am going to do my best to keep the matter hot until something is done by the city authorities."

Re-opening of Traction Park Casino Friday evening, December 22, by the Rodriguez Spanish opera company, direct from Spain. Spanish dancers, Spanish comic opera. Admission only 25 and 35 cents. Curtain raises at 8:30 prompt.

Before buying a bicycle, come in and see our stock. Albuquerque Novelty Works, 321 South Second street.

There will be an ample supply of turkeys and all other cuts of meat for your Christmas dinner at the Union Market, 297 West Second avenue.

T. J. Shinnick has removed his wagon and horseshoeing shop to the large building, 219 Copper avenue, three doors west of his old stand.

Heinz bulk mince meat, apple butter, Indian relish, sweet, sour and dill pickles at Trotter & Hawkins.

All kinds of nuts at Schutt's, second door north of postoffice.

A Diamond that cost \$140 in a jewelry store can be bought from us for \$100.00. A Watch that a jeweler would sell for \$25.00 is marked in our window at \$12.00. Therefore, buy your Christmas Presents from us. Largest line of Indian Bracelets in the city on display in our window.

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LA INTERNACIONAL (Mexican)

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